Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 90	)	WP Docket No. 07-100
of the Commission's Rules	)	

Comments on behalf of the Cable and Telecommunications Committee of the New Orleans City Council

The Cable and Telecommunications Committee of the New Orleans City Council, through its undersigned counsel, submits these comments in response to the Report and Order and Further Notice of Proposed Rulemaking released by the Federal Communications Commission ("FCC" or "Commission") on April 9, 2008.

Introduction

The Cable and Telecommunications Committee of the New Orleans City Council oversees the City Council's regulatory authority over cable and telecommunication matters and makes recommendations to the full City Council concerning regulations and services. The Cable and Telecommunications Committee also reviews and recommends policy concerning the granting and oversight of cable and telecommunications franchises in New Orleans.

The Cable and Telecommunications Committee is most interested in all matters concerning the effectiveness of first responders, and submits this Comment in furtherance of such

policy.

Discussion

I. Clarification of 4.9 GHz

M/A-COM, Inc. (M/A-COM) has requested the FCC to modify the Commission's rules regarding the 4.9GHz band. First, M/A-COM asks the Commission for an amendment to Section 90.1207(c)[1] that would "clarify that point-to-point and point-to-multipoint fixed links in the 4.9 Ghz public safety networks are co-primary with mobile links" and "grant primary status to fixed links connecting public safety networks with each other using the 4940-4990 MHz band."[2] Second, M/A-COM proposes to add "a new Section 90.1215(d)" thereby updating this section "consistent with changes the Commission . . . made to Section 15.407(a) of its rules" (i.e., reflecting the same revised measurement procedures adopted by the Commission for devices that use digital modulation techniques regulated by Part 15).[3]

Section 90.1207 currently provides 4.9 Ghz licensees with authority to "operate base and mobile units (including portable and handheld units) and operate temporary (1 year or less) fixed stations,"[4] but not to "operate permanent fixed point-to-point stations."[5] Further, Section 90.2107 provides that "[l]icensees choosing to operate [permanent fixed point-to-

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[1] 47 C.F.R. § 90.1207(c).

[2] Petition for Clarification or, in the Alternative, Petition for Rulemaking of M/A-COM, Inc. at 10 (filed July 22, 2005) (Petition). Amended Petition for Clarification or, in the Alternative, Petition for Rulemaking of M/A-COM, Inc. (Amended Petition) at 10 (filed Aug. 23, 2005).

[3] Petition at 12; Amended Petition at 12.

[4] 47 C.F.R. §§ 90.1207(c).

[5] 47 C.F.R. §§ 90.1207(d).

point stations] must license them individually on a site-by-site basis" and "will authorized only on a secondary, non-interference basis to base, mobile and temporary fixed operations."[6] In its petition seeking clarifications regarding the 4.9 GHz band rules, M/A-CIM states that "the Commission did not define . . . [the] allocation status of hot spots or temporary fixed links, i.e., whether such hot spots and links have primary or secondary status, and the Commission's Part 90 rules do not address the allocation status of such links."[7] Therefore, M/A-COM states that the "present Part 90 rules create regulatory uncertainty - as they are vague or potentially inconsistent with the *Third Report and Order* - and could discourage public safety users and first responders from deploying . . . broadband networks."[8] M/A-COM states that "public safety users and first responders will need integrated networks with scalable network architectures that allow for dynamic routing of traffic over both fixed and mobile links,"[9] and thus proposes that the Commission amend its Part 90 rules to "grant primary status to point-to-point and point-to-multipoint fixed links that are part of a 4.9 Ghz public safety network."[10] M/A-COM adds that "the Commission should continue to grant secondary status to traditional, stand-alone point-to-point links for purposes such as

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[6] *Id.*

[7] Petition at 3; Amended Petition at 3.

[8] Petition at 5; Amended Petition at 5. The *Third Report and Order* refers to 4.9 GHz Band Transferred from Federal Government Use, Memorandum Opinion and Order and Third Report and *Order*, WT Docket No. 00-32, 18 FCC Rcd 9152 (2003) (*4.9 Ghz Third Report and Order*).

[9] Petition at 5; Amended Petition at 5.

[10] Amended Petition at 5.

backhaul."[11]

The Cable and Telecommunications Committee of the New Orleans City Council urges the Commission to clarify its rules to afford primary status to fixed point-to-point and point-to-multipoint links operating as part of an integrated 4.9 GHz public safety broadband network. M/A-COM believes that the rules are ambiguous regarding the status of permanent fixed links that operate as part of an integrated 4.9 GHz network utilizing "hot spots" to provide mobile links.[12] The Cable and Telecommunications Committee of the New Orleans City Council agrees that the rules regarding fixed links are creating confusion in the marketplace and would benefit from FCC clarification. Today's networks are increasingly utilizing mesh networking technology and other interconnected technologies to form a broadband area wide network. Mesh networks, utilize a grid of fixed access points to provide wireless broadband communications access across a localized geographic area such as a town or city. Communications are distributed throughout the service areas through the fixed access points. These networks are consistent with public safety needs and the band characteristics of the 4.9 GHz band. However, the current rules can be interpreted to require that any base station to base station links be secondary. These necessary links can be configured as direct access point base station to access point base station with the access points also serving subscriber units. They can also be direct point-to-point links using separate station equipment to provide a link between access point stations.

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[11] *Id.* at 6.

[12] *Amendment of Part 90 of the Commission's Rules*, Notice of Proposed Rulemaking and Order, WP Docket No. 07-100, 22 FCC Rcd 9595 (2007) (Notice).

In either cases, the links are an integral part of the 4.9 Ghz system, and the Cable and Telecommunications Committee of the New Orleans City Council supports a clarification or rewording of the rules to insure consideration as primary under the rules. The Cable and Telecommunications Committee strongly believes that the links must directly support the 4.9 GHz network to serve subscriber units (mobile). The Cable and Telecommunications Committee also strongly believes the current licensing rules for fixed point-to-point links be retained but those links directly supporting a 4.9 GHz system as described above be primary stations. As a result, the Cable and Telecommunications Committee feels that primary status should be afforded to all functions that support and contribute to the overall development of delivering 4.9 GHz user-based service as envisioned by the implementing agency. Other point-to-point links not resulting in the direct deliverance of 4.9 GHz service to support broadband public safety user applications should remain secondary under the rules and require separate licensing as currently required by the rules.

While unfettered use of the band for traditional "back-haul" fixed links could pose interference risks to non-affiliated access points and users devices operating in the same band, the Cable and Telecommunications Committee does support the use of the 4.9 GHz band for fixed links in cases where the links can be implemented without negatively impacting use of the spectrum for mobile services. Such uses help to ensure that the spectrum is used as efficiently as possible while maintaining the emphasis on the primary mobile use. To this end, the Cable and Telecommunications Committee sees that advanced technologies can greatly improve the ability of fixed links to use this spectrum while minimizing interference to

mobile uses or otherwise impacting use of this spectrum for mobile services. Fixed systems that employ dynamic spectrum monitoring and access techniques to avoid co-channel interference to base/mobile systems can effectively operate around the mobile operations and would promote more efficient use of the spectrum, provided adequate equipment design and selection of appropriate parameters to avoid interference.

II. Measurement procedures

The Commission also proposes to revise the power measurement procedures for 4.9 GHz devices currently specified in Section 90.1215 to conform with the average power measurements recently implemented in sections 15.247 and 15.407 for unlicensed digital devices.[13] The Commission proposes to define the maximum power as maximum output power as opposed to peak transmit power and to adopt a 13 dB maximum peak-to-average ration, which is consistent with existing Part 15 requirements. The Cable and Telecommunications Committee supports these changes, which will harmonize measurement procedures for similar devices operating in nearby frequency bands. There is no reason to treat identical equipment differently for compliance test purposes. The Cable and Telecommunications Committee supports the Commission's tentative conclusion to amend Section 90.1215 to reflect the average power measurement test procedures used by the Commission for unlicensed devices that use digital modulation techniques.

III. Part 90 Paging on Public Safety VHF Frequencies

VHF public safety frequencies (150-174 MHz) are used primarily for two-way voice

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[13] Notice at ¶23.

communications (e.g., mobile dispatch).[14] The Commission's rules, however, also allow for paging operations on these frequencies.[15] As the Commission observed in the Notice, experience has shown that paging and two-way voice operations can generally co-exist on the same channel in the same area without interference, provided the paging transmission are infrequent (low traffic volume) and the paging licensee monitors the channels before transmitting.[16] Experience also has shown that the potential for paging to interfere with voice operations tends to increase as the amount of paging traffic increases.

The Commission previously expressed concern about the potential incompatibility between high-volume paging operations and public safety two-way voice communications operating on VHF frequencies.[17] To address the possibility of interference in these situations, the Commission sought comment on whether paging operations conducted pursuant to Section 90.22 on VHF public safety frequencies should be restricted, especially on those frequencies reserved under the rules for mutual aid/interoperability communications.[18]

The Cable and Telecommunications Committee of the New Orleans City Council strongly recommends against eliminating paging capability in the VHF or any other band. To do so will cause serious disruption to public safety communications and eliminate an effective

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[14] 47 C.F.R. § 90.20(c)(3) (Public Safety Frequency Table).

[15] 47 C.F.R. § 90.22.

[16] Notice at ¶4.

[17] See Amendment of Part 90 of the Commission's Rules to Create an Emergency Medical Radio Service, *Report and Order*, PR Docket No. 91-72, 8 FCC Rcd 1454, 1457 ¶ 17 (1993).

[18] Notice at ¶ 6.

and efficient means to summon and notify personnel. Disruption to voice communications can be avoided through the normal frequency coordination efforts that are integral to the shared spectrum environment public safety operates in.

Paging is a prevalent means to disrupt personnel and resources over a wide area. This use and accompanying efficiency relieves crowed voice capacity. The portability and resiliency of paging units and their low cost are unique and have been enhanced by recent technical advances.

Paging remains a critical communications path used by the range of public safety services - law enforcement, fire, emergency medical, transportation, and others. It is of particular importance where public safety relies upon volunteers who must be summoned from work or residence, often across wide geographic areas. It is a means used across all services to alert specialized units to a particular incident. To eliminate paging in the VHF band will not simply impose the additional costs associated with full voice communications but will eliminate communications entirely. Further, restrictions on paging operations on VHF public safety frequencies will result in a significant, negative impact on the ability of first responders, including Fire and EMS, to provide mission-critical communications. Eliminating altogether paging operations on VHF public safety frequencies risks crippling such operations.

First responders in major metropolitan areas, and mid-sized and small cities, rely heavily on VHF paging systems to alert personnel to emergency calls, particularly volunteer and off duty personnel. VHF paging has evolved as the predominant means by which such

notifications are communicated. The ability and value of VHF paging has been proven during Hurricane Katrina. The Commission's Independent Panel addressing Hurricane Katrina recognized the important role that paging systems serve in disaster situations, concluding that paging appeared more reliable in certain instances than voice/cellular systems due to inherent redundancy whereby messages may still be relayed if a single transmitter or group of transmitters in a network fails, long battery life, and effective text and broadcast messaging.[19]

Without the availability of VHF paging systems, first responders would be forced to rely on 24x7 radio dispatch services or by migration to paging services in other bands, the propagation characteristics of which would require total system redesign, particularly in geographic areas in which the wide area coverage provided by VHF is necessary. While neither is spectrally efficient nor practical, both options would require a substantial investment in equipment and network infrastructure, funding for which is not available or very costly.

While instances of interference or co-channel incompatibility may occur, the Cable and Telecommunications Committee believes that the benefit of VHF paging, particularly for first responders and the public they serve, outweighs any Commission oversight and enforcement requirements. For these reasons, the Cable and Telecommunications Committee urges the Commission to retain the general provision to allow paging operations on VHF public safety frequencies.

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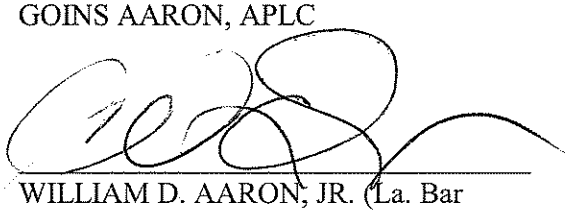
[19] *Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks Report and Recommendations to the Federal Communications Commission*, at ¶ 5, page 10, In the Matter of Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks, *Notice of Proposed Rulemaking*, FCC 06-83, EB Docket No. 06-119 (June 19, 2006).

Conclusion

The Cable and Telecommunications Committee of the New Orleans City Council agrees with the Commission's proposal to clarify its 4.9 GHz rules so that links constituting an integral part of a 4.9 GHz system receive primary status. The Cable and Telecommunications Committee of the New Orleans City Council also urges the Commission to reject any elimination or restriction on paging capability in public safety pool frequencies. Paging remains a crucial cost efficient element to expedite emergency response. For these reasons, the Cable and Telecommunications Committee of the New Orleans City Council urges the Commission to proceed expeditiously with the adoption of its clarifications and proposals, consistent with the recommendations herein.

Respectfully Submitted:

GOINS AARON, APLC



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